

REMARKS

Applicant would like to thank Examiner John G. Weiss for the very courteous and helpful discussion held with Applicant's representative on February 16, 2005. During the discussion, it was noted that the only outstanding rejection raised in the Final Office Action—namely, the rejection of claims 1-39 under 35 U.S.C. § 102(e) as being anticipated by *Korpela* (United States Patent No. 6,311,054)—is improper inasmuch as this single reference fails to describe each and every element recited in rejected independent claims 1 and 34. In the course of the discussion, Examiner Weiss agreed that the rejection is improper and informed the undersigned agent that upon filing of the present Remarks, the finality of the prior Office Action would be withdrawn.

During the discussion, Examiner Weiss further suggested that independent method claim 34 should be clarified to positively recite in the body of the claim those elements already recited in the preamble. The present amendment fully adopts this suggestion.

Claim Rejections – 35 U.S.C. § 102(e)

The rejection of claims 1-39 under 35 U.S.C. § 102(e) as being anticipated by *Korpela* is respectfully traversed. *Korpela* does not teach or suggest each and every element recited in independent claims 1 and 34. At a minimum, *Korpela* does not teach or suggest a computation section for calculating and outputting a license fee to be paid for usage of downloaded applications, as required by independent claim 1, nor does it teach or suggest calculating a license fee to be paid to each provider for usage of a downloaded application, as required by independent claim 34.

MPEP 2131 states that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Since the only cited reference, *Korpela*, does not teach or suggest each and every element of the rejected independent claims, a rejection under 35 U.S.C. § 102 is improper as was explained during the interview and set forth in the Interview Summary. As explained during the interview, the only type of charging described in the entirety of *Korpela* is unrelated to the usage of downloaded

applications for which a license fee is payable. Thus, as further explained below, there does not even exist any motivation to modify the teachings of *Korpela* in an effort to arrive at the claimed invention.

By way of introduction, the claimed invention relates to information distribution server systems and distribution methods for distributing applications to radio portable terminals (e.g., cellular phones). As described in the specification (e.g., specification, page 9, lines 9-13), a user pays a predetermined usage fee (e.g., a monthly charge) to purchase a right that permits downloading and use of various applications (e.g., game software applications) registered and stored in a group of servers. As further described (e.g., specification, page 10, lines 9-13), the provider is the party who holds a license for a certain application and who reserves the right to receive a part of the user-paid fee as compensation (e.g., a license fee) for using the application.

As explained during the discussion, the claimed invention provides the ability for multiple application-program-providers to share the grand total of monthly flat subscription fees collected from multiple users for using one or more downloaded program applications. The claimed distribution scheme is determined on the basis of a weighted function of factors including time based usage of each application program, number of downloads of a particular application program, evaluation of users, and the like. Thus, each application program provider shares a portion of a grand total, which is determined based on the relative strength and/or popularity of the application program they provide.

Korpela describes methods and systems for determining charging information in mobile communication systems. In contrast to the claimed invention, charge calculations as described in *Korpela* are based solely on the transferred amount of payload data (e.g., col. 1, lines 34-37) and/or call duration (e.g., col. 2, lines 35-38). Thus, in contrast to the claimed invention where charge calculations are based on usage of applications, the charge calculations described in *Korpela* are based on duration and/or amount of data transferred during calls, which are described as referring to voice calls, data calls, and video calls (e.g., col. 5, lines 56-59). Thus, the charging system describe in *Korpela* is limited to the incremental accumulation of charges for a

network (provider), which are determined solely on the basis of a data counter/time counter.

The pronounced differences between *Korpela* and the claimed invention are reflected in the fact that independent claims 1 and 34 recite elements that are neither taught nor suggested in *Korpela*. At a minimum, *Korpela* fails to teach or suggest applications for downloading to radio portable terminals and license fees to be paid to providers for using the applications. Moreover, *Korpela* contains no teaching or suggestion of “a detection section for detecting the status of usage of [an] application” or of “a computation section for calculating and outputting a license fee to be paid for each provider,” as required by independent claim 1. Furthermore, *Korpela* contains no teaching or suggestion of “detecting the status of usage of [an] application” or of “calculating a license fee to be paid for each provider,” as required by independent claim 34.

For at least the reasons set forth above, Applicant respectfully submits that the claimed invention is neither anticipated by nor would have been obvious in view of *Korpela*. Accordingly, withdrawal of this ground of rejection is respectfully requested.

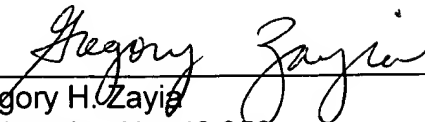
Conclusion:

In accordance with MPEP 714.13, Applicant respectfully submits that the present Amendment and Response is appropriate for entry under 37 CFR § 1.116 inasmuch as it merely adopts examiner suggestions. Entry of the present Amendment and Remarks is, therefore, respectfully requested.

In view of the Amendment and Remarks set forth above, Applicant respectfully submits that the claimed invention is in condition for allowance. Early notification to such effect is earnestly solicited.

If for any reason the Examiner feels that the above Amendment and Remarks do not put the claims in condition to be allowed, and that a further interview would be helpful, it is respectfully requested that the Examiner contact the undersigned agent directly at (312)-321-4257.

Respectfully submitted,



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